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RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 21st April, 1961:—

I

BILL No. IX of 1961

A bill further to amend the Hindu Marriage Act, 1955.

BE it enacted by Parliament in the Twelfth Year of the Republic of India as follows:—

1. This Act may be called the Hindu Marriage (Amendment) Short title. Act, 1961.

25 of 1955. 2. In section 3 of the Hindu Marriage Act, 1955 (hereinafter referred to as the principal Act), for sub-clause (i) of clause (f), the following sub-clause shall be substituted, namely:—

“(i) ‘sapinda relationship’ with reference to any person extends as far as the fourth generation (inclusive) in the line of ascent through the mother, and the sixth (inclusive) in the line of ascent through the father, the line being traced upwards in each case from the person concerned, who is to be counted as the first generation;”.

3. In section 5 of the principal Act, after clause (iii), the following clause shall be inserted, namely:—

“(iiia) the difference in the age of the bride and the bride-groom is not more than fifteen years, except in the case of a marriage where the bride is a widow before such marriage;”.

STATEMENT OF OBJECTS AND REASONS

Section 5(v) of the Hindu Marriage Act, 1955 provides that a marriage between two Hindus shall not be lawful if the parties are *sapindas* of each other unless the custom or usage governing each of them permits of a marriage between the two. *Sapinda* relationship has been defined in section 3(f) of the same Act as extending as far as the third generation (inclusive) in the line of ascent through the mother and the fifth (inclusive) in the line of ascent through the father. According to this definition marriages between the children of first cousins on the maternal side are permitted. First cousins among Hindus are considered practically as brothers and sisters. Marriages between very near cousins have in the past always been prohibited both on social and eugenic grounds. Socially, this prohibition allows near relatives to meet and mix together without the least fear of having to face any serious problem. Eugenically also this avoids inbreeding which is admitted by all scientists to be a cause of degeneration.

Clause 2 of the Bill seeks to amend the definition of *sapinda* relationship by raising the degree from the third generation to the fourth in the line of ascent through the mother with a view to applying a timely brake on the disintegration of good relations between near cousins. The amendment of the definition of *sapinda* relationship in the line of ascent through the father is only a corollary to the proposed amendment in the line of ascent through the mother. The difference of two degrees is necessary between the female and male ancestors, because, the descendants of male ancestors constitute one family.

The amendment to section 5 proposed in clause 3 of this Bill is self-explanatory and is intended to avoid unequal marriages, exception being made in the case of widow re-marriages.

SHARDA BHARGAVA

II

BILL No. 1 OF 1961

A bill to amend the Delhi Municipal Corporation Act, 1957.

Be it enacted by Parliament in the Twelfth Year of the Republic of India as follows:—

1. This Act may be called the Delhi Municipal Corporation Short title. (Amendment) Act, 1961.

66 of 1957. 2. After section 36 of the Delhi Municipal Corporation Act, 1957 Insertion of new section (hereinafter referred to as the principal Act), the following section 36 A. shall be inserted, namely:—

“36A. (1) The Mayor shall have administrative control over Powers and functions of the Mayor. the office of the Corporation and its staff.

(2) The Mayor, or in his absence the Deputy Mayor, may, in cases of emergency, direct the execution or stoppage of any work or any act, the immediate execution or stoppage of which, in his opinion, is necessary for the purposes of this Act:

Provided that—

(i) he shall not act under this sub-section in contravention of any order or decision of the Corporation prohibiting the execution or stoppage of any particular work or act; and

(ii) he shall report the action taken under this sub-section and the reasons therefor to the Corporation at its next meeting and the decision of the Corporation thereon shall be final."

Insertion of heading and new sections 478A, 478B and 478C. 3. After section 478 in Chapter XXII of the principal Act, the following heading and sections shall be inserted, namely:—

"Appeals"

Appeals to the Commissioner.

478A. Any person, aggrieved by an order passed by an officer subordinate to the Commissioner under this Act, or under any rule or bye-law, may appeal to the Commissioner within thirty days of the date on which the order is conveyed to him.

Appeal Committee.

478B. (1) Any person aggrieved by—

(a) any notice or order issued or other action taken by the Commissioner under any of the sections 154, 164, 242, 243, 245, 247, 249, 252, 253, 254, 317, 318, 321, 325, 328, 334, 336, 338, 344, 346, 348, 364, 403, 416 and 421, or any rule or bye-law,

(b) any order of the Commissioner regarding the granting or refusing of a license or permission, or

(c) any other order of the Commissioner that may be made so appealable by any rule or bye-law,

may appeal to the Corporation within thirty days from the date of the service of such notice, the passing of such order or the taking of such action, as the case may be.

(2) Such appeal shall be heard and disposed of by a committee to be called the "Appeal Committee" appointed by the Corporation.

(3) The Appeal Committee shall consist of the Mayor and four other councillors to be elected by the Corporation.

(4) The Appeal Committee may for sufficient cause extend the period prescribed for appeal.

(5) The Appeal Committee may remand any case for further enquiry or decision, or may pass such other order as may be deemed just and proper; and no appeal or revision shall lie against this decision of the Appeal Committee.

(6) The Appeal Committee may review its own order:

Provided that no order under sub-section (5) or sub-section (6) shall be passed to the prejudice of any person until he has been given a reasonable opportunity of being heard.

(7) The Appeal Committee may allow any officer deputed by the Commissioner for the purpose to appear before it in any appeal and to watch or represent the interests of the Corporation.

(8) The Corporation may frame regulations for the conduct of business before the Appeal Committee.

478C. When an appeal has been preferred against an order under section 478A or section 478B, all proceedings to enforce such order and all prosecutions for a breach thereof may, by an order of the Appellate Authority, or the Mayor when the Appeal Committee is not sitting, be suspended pending the decision of the appeal.”.

Suspension
of proceed-
ings pending
decision on
appeals.

STATEMENT OF OBJECTS AND REASONS

Most of the disputes of individual citizens with the Delhi Municipal Corporation are of a minor nature and call for summary disposal. A forum of appeal against the orders of the Municipal Commissioner, within the Municipal Government itself, has been found by experience to be very desirable, as it provides expeditious and cheap justice and relief. A statutory Committee, competent to hear and dispose of such appeals, is therefore sought to be created by this Bill.

Secondly, occasions sometimes arise which call for immediate action in the interests of the Municipality which would otherwise involve delay and loss or damage. The Mayor, who is the head of the Municipal Corporation, is therefore sought to be invested by this Bill with adequate powers in cases of emergency, providing at the same time adequate safeguards against their misuse.

V. V. SARWATE.

MEMORANDUM ON DELEGATED LEGISLATION

The Bill seeks to vest the Delhi Municipal Corporation with powers to make regulations, which are merely of a procedural and routine nature, and do not involve any substantive right or power. The delegation of legislative power therefore is of a normal character.

III

BILL No. X OF 1961

A bill further to amend the Indian Penal Code

BE it enacted by Parliament in the Twelfth Year of the Republic of India as follows:—

Short title. 1. This Act may be called the Indian Penal Code (Amendment) Act, 1961.

Insertion of new section 293A. 2. After section 293 of the Indian Penal Code, the following section shall be inserted, namely:— Act 45 of 1860.

“293A. Nothing contained in section 292 or section 293 shall apply to any book, pamphlet, writing, drawing, painting, representation or figure meant for public good or for *bona fide* purposes of science, literature, art or any other branch of learning:

Provided that in the event of any dispute arising as to the nature of the publication, the opinion of experts on the subject may be admitted as evidence.”

STATEMENT OF OBJECTS AND REASONS

Under the present sections 292 and 293 of the Indian Penal Code, there is a danger of publications meant for public good or for *bona fide* purposes of science, literature, art, or any other branch of learning being declared as obscene literature as there is no specific provision in the Act for exempting them from the operation of those sections. This Bill seeks to remove that lacuna so as to bring the law into conformity with modern practice in other civilised countries.

DIWAN CHAMAN LALL

S. N. MUKERJEE,

Secretary

